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MEMO ENDORSED

August 18, 2008

BY HAND

Honorable Denise Cote
United States District Judge
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: Chris Sforza v. City of New York, et al., 07 CV 6122 (DLC)

Dear Judge Cote:

I am an attorney in the office of Michael A. Cardozo, Corporation Counsel of the City of New York, attorney for defendant City of New York in the above-referenced action brought pursuant to 42 U.S.C. § 1983. I write to request an enlargement of time in which to respond to the allegations of the second amended complaint on behalf of the City of New York and the five newly-added individual defendants ("City Defendants") to 30 days after the last of the newly-added individual defendants has been served. Plaintiff's counsel has consented to this request. I understand that Mr. Clark, counsel for McDonald's Restaurants of New York, Inc., has been out of his office, and despite several attempts to reach him by telephone and e-mail message, I have been unable to contact him to obtain his position. However, I have no reason to believe that he would not consent to this request.

Plaintiff filed her second amended complaint on August 6, 2008. Accordingly, defendant City of New York's response is due on August 20, 2008. Plaintiff amended to name five new individual present and former members of the New York City Police Department. On information and believe, none of the individual defendants has been served as of yet. However,

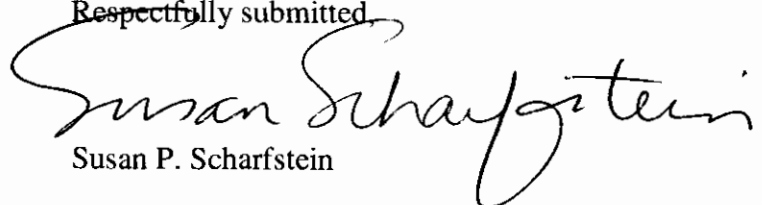
plaintiff's counsel has service information for the defendants.¹ Accordingly, if the Court grants this request, defendants will be able to submit a single consolidated response to the second amended complaint, and that response should not be delayed because of issues relating to service.

As the Court is aware, this office must address representational issues as to each of the five newly-added present and former members of NYPD. I am aware that at least two of those individuals will be unavailable for several weeks in late August and early September because of summer vacation schedules and other personal matters. Without appearing or making any representations on their behalf, we respectfully request that the five new individual defendants be granted the same extension of time in which to respond to the allegations of the complaint in order to ensure that their defenses are not jeopardized while representation issues are being addressed. Moreover, once the individual defendants have been served, pursuant to Section 50-k of the New York General Municipal Law, the Corporation Counsel's office must determine, based on a review of the facts of the case, whether we may represent them. See Mercurio v. City of New York, et al., 758 F.2d 862, 864-65 (2d Cir. 1985) (quoting Williams v. City of New York, et al., 64 N.Y.2d 800, 486 N.Y.S.2d 918 (1985)) (decision as to whether to represent individual defendants is made by the Corporation Counsel as set forth in state law).

No previous request for an extension of time to respond to the second amended complaint has been made. Accordingly, we respectfully request that City Defendants' time to answer or otherwise respond to the complaint be extended to 30 days after the last of the newly-added defendants has been served.

Thank you for your consideration herein.

Respectfully submitted,


Susan P. Scharfstein

*Plaintiff must serve the defendants named in
the August 6 complaint by September 19, 2008.
Any answer is due no later than October 17,
2008.*

*James L. [unclear]
August 19, 2008*

¹ Today, I notified plaintiff's counsel that the one newly-added defendant who is retired from service has authorized the NYPD Legal Bureau to accept service on his behalf and can be served at that office in Manhattan. The remaining officer defendants can be served at the location of their current assignments in Manhattan.

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